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8 **UNITED STATE DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 LINO MARTINEZ,  
12 Plaintiff,

13 vs.

14 NDEX WEST, LLC; AMERICAS  
15 SERVICING COMPANY; DEUTSCHE  
16 BAN NATIONAL TRUST  
17 COMPANY, AS TRUSTEE FOR  
18 FREMONT HOME LOAN TRUST  
19 2006-3; FREMONT INVESTMENT  
20 AND LOAN; and DOES 1 - 10,  
21 inclusive,

22 Defendants.

Case No.: CV08-07348 R (AJWx)  
Hon. Manuel L. Real  
Courtroom 8 – Spring Street

**~~PROPOSED~~ JUDGMENT**

Complaint filed: October 1, 2008

20 The motion of Defendants WELLS FARGO BANK, N.A. dba America's  
21 Servicing Company (erroneously sued America's Servicing Company) and  
22 DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for Fremont  
23 Home Loan Trust 2006-3 ("Defendants") to dismiss the first amended complaint of  
24 Plaintiff Lino Martinez pursuant to Federal Rule of Civil Procedure 12(b)(6) and  
25 12(e) for failure to state a claim upon which relief can be granted came on regularly  
26 for hearing on March 23, 2009 at 10:00 a.m. before the Honorable Manuel L. Real.  
27 Jarlath M. Curran, II of the Law Firm of Severson & Werson appeared on behalf of  
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1 Defendants. There were no appearances by or on behalf of Plaintiff. All other  
2 appearances are noted on the record.

3 After considering the moving papers as well as all opposition papers, if any,  
4 and good cause appearing, the Court rules as follows:

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that  
6 Defendants' motion to dismiss is granted.

7 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that  
8 Plaintiffs' first amended complaint is dismissed with prejudice as to Wells Fargo  
9 Bank, N.A. dba America's Servicing Company (erroneously sued as America's  
10 Servicing Company) and Deutsche Bank National Trust Company, as Trustee for  
11 Fremont Home Loan Trust 2006-3. Plaintiff is to recover nothing from Defendants.

12 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that MW  
13 Roth PLC and or Mitchell Roth, jointly and severally, shall reimburse Plaintiffs any  
14 monies paid to file or pursue this lawsuit.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that MW  
16 Roth PLC and or Mitchell Roth, jointly and severally, shall pay Defendants the sum  
17 of \$4,049.20, which constitutes all attorney's fees and costs incurred by Defendants  
18 in defending this action.

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21 DATED: May 29, 2009

  
HONORABLE MANUEL L. REAL